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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,289	08/02/2001	Yoshinori Hatayama	010986	3884

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EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/920,289

**Applicant(s)**

HATAYAMA, YOSHINORI

**Examiner**

Saleh Najjar

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 6-9, 11-19 and 21-26 is/are rejected.  
7) ☒ Claim(s) 5, 10, 20, 27 and 28 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/05/01; 11/04/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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1. This action is responsive to the application on August 02, 2001. Claims 1-28 are pending.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6-7, 23-24, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Feigenbaum, U.S. Patent No. 6,377,974 (referred to hereafter as Feig).

Feig teaches the invention as claimed including a method and apparatus for initiating a second download of a file in response to interruption in the initial download of the file (see abstract).

As to claim 1, Feig teaches a 1. An information distribution apparatus for transmitting distribution information as real-time information, comprising:

distribution means for transmitting the distribution information in real time to receiver terminal (see figs. 1-2; col. 2, lines 40-50, Feig discloses a server for transferring file to a client user);

distribution information storage means for separately storing the distribution information to be transmitted by the distribution information (see col. 2, line 48, Feig discloses a proxy for separately storing information transmitted by the source server);

interruption information storage means which, the event that transmission of distribution information from the distribution means to a certain receiving terminal interrupted, stores specific information for specifying position on the distribution information where interruption has arisen (see col. 3, lines 1-35, Feig discloses that the client stores reference pointers of the file that is transmitted to the proxy for specifying the point at which the file download needs to resume); and

re-distribution means which, in response to a request from the receiving terminal, loads from the distribution information information storage means and specified by specific information the distribution subsequent to a position that stored in the interruption information storage means, and which transmits the partial information (see col. 3, lines 1-50, Feig discloses that the proxy server redistributes the file at the point of interruption).

As to claim 2, Feig teaches the information distribution apparatus according to claim 1 wherein the re-distribution means transmits the partial information at a speed faster than that at which the distribution means transmits distribution information in real time (see col. 3, line 34).

As to claim 3, Feig teaches the information distribution apparatus according to claim 1, wherein the information distribution apparatus further comprises:

interruption sensing means for sensing that transmission of distribution information from the distribution means a certain receiving terminal has been interrupted; and wherein, when the sensing means has sensed occurrence of interruption in transmission, interruption information storage means stores specific information for specifying a position on the information where interruption has arisen (see col. 3, lines 5-30, Feig discloses that the proxy server resumes transmission of the file from the point of interruption by storing and presenting the file reference point at which the client stopped receiving the downloaded file to the server).

As to claim 4, Feig teaches the information distribution apparatus according to claim 1, wherein the specific information for specifying a position on distribution information where interruption has arisen is stored in the interruption information

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storage means, in association with receiver information for specifying a receiver and distribution information specification information for specifying interrupted distribution information; and when a re-distribution request has been issued by the receiving terminal, the re-distribution means detects the distribution information specification information in accordance with the receiver information output from the receiving terminal and transmits the partial information pertaining to the distribution information specified by the distribution information specification information (see col. 3, lines 5-30, Feig discloses that the proxy server resumes transmission of the file from the point of interruption by storing and presenting the file reference point at which the client stopped receiving the downloaded file to the server).

As to claim 6, Feig teaches the information distribution apparatus according to claim 2, wherein the information distribution apparatus further includes update means for updating specific information stored in the interruption information storage means to time information about the distribution information that has already been distributed by the re-distribution means (see col. 3-4, Feig discloses that the client includes an interrupt processing means for storing the reference point at which the file download was interrupted).

As to claim 7, Feig teaches the information distribution apparatus according to claim 2, wherein the re-distribution means transmits an undistributed portion of the distribution information stemming from interruption such that transmission of the distribution information is completed when real-time transmission of the distribution information performed by the distribution means ends (see col. 3).

Claims 23-24, and 26 do not teach or define any new limitations above claims 1-4, 6-7 and therefore are rejected for similar reasons.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter

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as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CAR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 8-9, 11-19, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feigenbaum, U.S. Patent No. 6,377,974 (referred to hereafter as Feig).

Feig teaches the invention substantially as claimed including a method and apparatus for initiating a second download of a file in response to interruption in the initial download of the file (see abstract).

As to claim 8, Feig teaches an information distribution apparatus for transmitting distribution information as real-time information comprising:

distribution means for transmitting in real time to a receiving end the distribution information that has been entered by way of the source server to a receiver terminal (see figs. 1-2; col. 2, lines 40-50, Feig discloses a server for transferring a file to a client user the file input from other server sources);

distribution information storage means for separately storing the distribution information that has been entered by way of the source server means (see col. 2, line 48, Feig discloses a proxy for separately storing information transmitted by the source server);

interruption information storage means which, in the event that transmission of distribution information from the distribution means to a certain receiving terminal is interrupted, stores specific information specifying a position on the distribution information where interruption has arisen (see col. 3, lines 1-35, Feig discloses that the

client stores reference pointers of the file that is transmitted to the proxy for specifying the point at which the file download needs to resume); and re-distribution means which, in response to a request from means partial information which constitutes a portion the distribution information stored in the distribution information storage means and is subsequent a position specified by specific information that is stored in the interruption information storage means, and which transmits the partial information (see col. 3, lines 1-50, Feig discloses that the proxy server redistributes the file at the point of interruption).

Feig fails to teach the claimed limitation of an "input means for entering the distribution information". Feig does teach that the server 12 distributes files to a client, the file received from other server sources (see col. 2-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Feig by specifying the server sources as input means for entering the distribution information since the same functionality of inputting files to be transmitted is achieved.

As to claim 9, Feig teaches the information distribution apparatus according to claim 8, wherein the re-distribution means transmits the partial information at a speed faster than that at which the distribution means distributes distribution information in real time (see col. 3, line 34).

Claims 11-19, and 21-22 do not teach or define any new limitations above claims 1-4, 6-9 and therefore are rejected for similar reasons.

7. Claims 5, 10, 20, 27, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach neither singly nor in combination the claimed limitation of "time information sensing means for sensing time information pertaining to when the distribution information is distributed in real time; and

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changeover means which stops re-distribution operation performed by the re-distribution means and switches operation to real-time distribution by means of the distribution means when time information pertaining to the distribution information that has already been distributed by means of the re-distribution means has caught up with time information pertaining to real-time distribution sensed by the sensing means, as a result of re-transmission of distribution information performed by the re-distribution means".

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (571)272-4006. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Saleh Najjar

Primary Examiner / Art Unit 2157